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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P. 101 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Applicants

1. Kanhaiya Lal, aged 28 years, son of Shri Tulsidas Poptani
2. Kamla Devi, aged 52 years, wife of Shri Tulsidas Poptani,
3. Neelam, aged 20 years, daughter of Shri Tulsidas Poptani.
4. Santosh, aged 20 years, son of Shri Tulsidas Poptani,
5. Tulsidas, aged 56 years, son of Shri Topandas Poptani,

All residents of A.N Guha lane, Sambalpur (Orissa)

6. Tara Panjwani, aged 25 years, wife of Kanhaiyalal, resident of Lakhenagar, near electric office, Raipur, P.S. Purani Basti Raipur, District Raipur (Chhattisgarh)

Vs.

Non-applicants

1. State of Chhattisgarh, through the police station Mahila Thana, Civil Line, Bilaspur, Chhattisgarh.
2. Smt. Radhika Poptani, aged 27 years, wife of Kanhaiyalal Poptani, resident of Ramniketan Chawl, Seepatroad, Sarkanda, police station Sarkanda, Bilaspur, Chhattisgarh.

12.9.2007

Shri Somnath Verma, counsel for the applicants.
Shri Upendra Bharat, counsel for the non-applicant No. 2.

2. The applicants have preferred the instant petition under Section 482 of the Cr.P.C. against the order dated 28th February 2007 of Annexure P/13 whereby the learned II

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Additional Sessions Judge, Bilaspur has dismissed the criminal revision preferred by the applicants against the order dated 8.1.2007 passed by Judicial Magistrate First Class, Bilaspur. 3. Grievance of the applicants is that on the basis of First Information Report dated 3.5.2003 filed by the non-applicant No. 2 at Police Station Mahila Thana, Bilaspur offence under Sections 498A and 506B/34 of the IPC was registered against them and after investigation charge sheet was filed on 30.6.2003 in the Court of Judicial Magistrate First Class, Bilaspur. From perusal of the whole charge sheet including the FIR it would be evident that no part of cause of action arose within the territorial jurisdiction of the J.M.F.C., Bilaspur as all the allegations of harassment and tortures are said to have taken place at Sambhalpur, Orissa, however, the trial Court rejected the application of the applicants for dropping the criminal proceedings for want of territorial jurisdiction vide order of Annexure P/10 dated 21.6.2006 and another application for the same purpose was also rejected on 8.1.2007. Thereafter, the applicants preferred a criminal revision against the above order and the same has been further dismissed by the revisional Court vide order dated 28.2.2007 of Annexure P/13.	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4. Relying upon the judgments in the matters of **Y. Abraham Ajith and others Vs Inspector of Police, Chennai and another, 2004 AIR SCW 4788,** and **Vakil Kapoor and others Vs. State of C.G. and another, 2006(2) C.G.L.J. 133**, it has been contended that the question of jurisdiction goes to the root of the matter and both the Courts below have committed illegality by assuming jurisdiction though the learned Magistrate has no jurisdiction to entertain the charge sheet.

5. On the other hand, learned counsel for the non-applicant No.2/complainant contended that objection regarding territorial jurisdiction was raised by the applicants for the first time after framing of charge on 4.10.2005 and prior to that they submitted to the territorial jurisdiction of the learned Magistrate without any objection and the same has attained finality as they have not challenged framing of charge and in these circumstances, the instant petition is not maintainable. It is further argued that looking to the bar contained in Section 397(3) of the Cr.P.C. second revision in the garb of petition under Section 482 of the Cr.P.C. cannot be entertained. The revision preferred by the applicants has already been rejected by the learned Additional Sessions Judge and therefore, the instant petition is not maintainable in view of provisions of Section 397(3) of the Cr.P.C. He further submits that though

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 4	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

harassment is alleged at Sambhalpur, Orissa, nevertheless in consequence of the harassment meted out to non-applicant No.2/complainant her relatives were telephoned by the complainant from Sambhalpur to save her from the atrocities of the accused persons.

6. Referring to Section 498A Explanation (b) of the IPC, it is argued that harassment to a woman with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security also constitutes offence within the meaning of Section 498A of the IPC. In the instant case the demands were made from the complainant and the same were in fact communicated to her relatives by the complainant and as such, the relatives of the complainant were also harassed on account of some unlawful demands by the applicants within the territorial jurisdiction of the Court at Bilaspur.

7. I have heard learned counsel for the parties and gone through the material available on record.

8. In the matter of Y. Abraham Ajit (supra) it has been held that since complaint does not disclose any demand of dowry or commission of any act constituting an offence at the place where cognizance was taken by the Court and no part of cause

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 5.	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of action arose at that place, the said Court has no jurisdiction to try the matter.

9. This Court in the matter of Vakil Kapoor & others (supra) relying upon the above judgment of the Hon'ble Apex Court has held that jurisdiction to try an offence shall be with the Court within whose local limits the offence was committed except provided otherwise in the Code.

10. In the instant case, the non-applicant No. 2/complainant has made allegations in the FIR that she was tortured and beaten at her matrimonial place at Sambhalpur, Orissa in the name of demand of dowry and due to above torture she telephonically informed her parents at Bilaspur about the said torture and demand whereupon her parents sent her brother to bring her back to Bilaspur. The above allegation is present in the FIR as also in the statement of mother of the complainant. Apart from that, the accused persons participated in the trial proceedings for a considerable period and charge was framed against them on 15.3.2004. They have not challenged framing of charge by the learned Magistrate, Bilaspur and the application for dropping the proceedings was filed only on 4.10.2005 vide Annexure P/9 & P/11.

11. It is settled law that the mere fact that proceedings were taken at wrong place would not vitiate the trial unless it

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 6	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

appears that it has occasioned failure of justice. In the present case, charge has already been framed, even the statements of the witnesses have been recorded during trial and therefore, this Court is of the considered opinion that present is not a fit case for quashing the proceedings while exercising jurisdiction under Section 482 of the Cr.P.C.

12. Accordingly, the petition being devoid of substance is hereby dismissed.

Sd/-
Dhirendra Mishra
Judge

KJ